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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
(VENICE COMMISSION)

**51<sup>st</sup> PLENARY SESSION**

**Venice, 5-6 July 2002**

**R E P O R T**

**1. Adoption of the Agenda**

The agenda was adopted without modification.

**2. Communication by the Secretariat**

The Secretariat recalled that that according to the new Statute adopted by the Committee of Ministers of the Council of Europe, non-member States of the Council of Europe could now become full members. Current observers could retain this status and would be invited, following the decision of the Bureau, once a year – probably in December - to a Plenary Session of the Commission. Observer countries would also be invited to participate on an ad-hoc basis in those activities of the Venice Commission that relate to their countries.

Bosnia and Herzegovina had joined the Council of Europe in April 2002 and thereby the Venice Commission.

The Commission was also informed of the decisions taken by the Bureau :

- The documents for plenary sessions would be provided in electronic form or be available on the Commission's website, hard copies would no longer be distributed at the meetings.
- Members, substitute members, associate members and observers were also reminded to send in their curriculum vitae and if they so wished recent photographs for the Commission's website.
- Following a resolution by the 12<sup>th</sup> Conference of the European Constitutional Courts (Brussels, 14-17 May 2002) inviting the Venice Commission to co-operate with the Constitutional Court of Belarus in view of a possible full membership of this Court with the Conference, it was decided to pursue co-operation with the latter, notably to resume publication of decisions of the Court in the Commission's *Bulletin on Constitutional Case-Law*. Further activities – seminars to further the rule of law in Belarus - could be pursued dependent on an improvement of the relations of Belarus with the international community.

**The Commission endorsed the decisions taken by the Bureau.**

### **3. Co-operation with the Committee of Ministers**

Ambassador Bernotas, Permanent Representative of Lithuania to the Council of Europe, reaffirmed the appreciation by the Committee of Ministers for the work of the Venice Commission and recalled the intense discussions at the Committee of Ministers on the text of the new Statute of the Commission.

Ambassador Chouraqui, Permanent Representative of France to the Council of Europe, reiterated the appreciation of the Commission's input into the Council of Europe overall activities and highlighted the importance of the continuation of the Commission's work as an enlarged agreement.

### **4. Co-operation with the Parliamentary Assembly**

Mr Jurgens, member of the Committee for Legal Affairs and Human Rights of the Parliamentary Assembly, welcomed the co-operation that had been developed between the Assembly and the Venice Commission. The Commission had recently been asked by the Assembly for advice on a number of important issues, notably on ethnic Hungarians living in neighbouring countries, minorities in Belgium, and execution of judgments of the European Court of Human Rights. The Commission might be requested for guidance on issues of nation, nationality, citizenship and language as they come up frequently in constitutional and other legislative texts.

### **5. Armenia**

*Legal reforms to be undertaken before the adoption of the revised Constitution*

The Secretariat informed the Commission that the adoption of the revised Constitution prepared in co-operation with the Commission was delayed. Such adoption required a referendum which could not be held before 2003. The Ago Group, which deals within the Committee of Ministers of the

Council of Europe with the monitoring of the commitments entered into by Armenia and Azerbaijan, therefore suggested that the Venice Commission should examine, with the Armenian authorities, pragmatic ways of introducing legal reforms before the entry into force of the new Constitution. A meeting on this topic will take place in Strasbourg on 11 to 12 July. Messrs Tuori, Endzins and Batliner will participate on behalf of the Commission.

#### *Law on Political Parties*

Mr Vogel presented the opinions prepared by Mr Tuori and himself (CDL (2002) 89 and 90) on the draft Law on Political Parties. Some provisions were still not entirely satisfactory in the draft. This concerned in particular the relationship between the draft law and the law on associations, registration requirements, the prohibition for non-citizens to become party members and the possibility for the parties to submit consolidated accounts. The opinions had already been sent to the Armenian authorities to enable them to take them into account before the adoption of the law.

Mr Harutunian reported that the law had been adopted by the Armenian Parliament on 3 July 2002. According to the information available to him most, or even all, of the comments made by the Venice Commission rapporteurs had been taken into account.

**The Commission took note of the opinions by Messrs Vogel and Tuori on the draft Law of the Republic of Armenia on Political Parties (CDL (2002) 89 and 90).**

#### *Electoral Code*

Mr Harutunian informed the Commission that on 3 July 2002 the Parliament had also adopted the revised Electoral Code, taking into account the commitments entered into by Armenia upon accession to the Council of Europe.

Mr Wagenseil welcomed the fact that the Venice Commission and OSCE / ODIHR had prepared a joint opinion on the Electoral Code (CDL (2002) 84). This should be repeated in the future, in particular with respect to Azerbaijan.

### **6. Azerbaijan**

Mr Hadjiev informed the Commission that on 24 August 2002, a referendum would be held which mainly dealt with three issues: the Prime Minister rather than the President of Parliament would become head of state *ad interim* in case of an incapacity of the President to fulfil his or her office, the introduction of a purely majoritarian system for elections and direct access for the individual, the ombudsman and ordinary courts to the Constitutional Court.

He further informed the Commission that the Constitutional law on the Regulation of the Implementation of Human Rights and Freedoms in Azerbaijan was adopted in first reading in Parliament.

Mr Buquicchio informed the Commission that the draft revised electoral code of Azerbaijan had been submitted to Messrs Nolte and Polizzi for comment. The experts' comments would then be forwarded to the authorities before the first reading which is foreseen for the beginning of October. A Round Table could then be organised by ODIHR during the second half of October. It is foreseen that a joint opinion will be drawn up by the Venice Commission and ODIHR.

## 7. Bosnia and Herzegovina

### *Amendments to the Constitution of Republika Srpska*

Mr Mikes, who had chaired the work of the Constitutional Commission in Republika Srpska, recalled that the Constitution of the Entity as adopted in 1992 treated only the Serb people as constituent people and mentioned only the Serb language. The decision of the Constitutional Court of Bosnia and Herzegovina on the issue of the constituent peoples made a revision of the Entity Constitution necessary, although this Constitution did not contain any overtly discriminatory provisions with respect to persons belonging to other peoples. The Constitutional Commission had worked well and had tried to harmonise the solutions adopted with those in the Federation of Bosnia and Herzegovina. A political agreement for the implementation of the decision of the Constitutional Court had been concluded in March and the amendments adopted by the National Assembly of Republika Srpska reflected this agreement. The High Representative had imposed three additional amendments of minor importance. While the constitutional amendments reflected present realities, in the long run Bosnia and Herzegovina should become a State of citizens and not be based on peoples.

Mr Scholsem recalled that the Commission had already adopted an opinion on the implementation of the decision of the Constitutional Court (CDL-INF (2001) 6). The local politicians had decided to implement the decision in a different way, emphasising collective equality. One could only welcome the fact that a political consensus on a solution had been achieved and this showed that a spirit of reconciliation now prevailed in Bosnia. From a purely legal point of view the text contained however problematic provisions. This concerned in particular the two-fold and extremely wide definition of vital interests and the extremely complicated procedures to decide on vital interest motions, including a highly political role of the Constitutional Court.

During the discussion it was underlined that the amendments constituted an important step forward from the point of view of the Bosnian Croats, that the reform of the central State should be the priority and that it was important to have an agreed solution which could later be improved. The solution chosen based on the concept of collective equality of the constituent peoples entailed however a risk of discrimination of persons not belonging to one of these peoples.

<p><b>The Commission invited Mr Scholsem to prepare comments on the amendments to the Constitution of Republika Srpska for adoption at its next plenary session.</b></p>
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### *Certain questions related to the division of competences and structure of the ombudsman institutions in Bosnia Herzegovina*

Ms Serra Lopes explained that upon a request from the OSCE mission to Bosnia and Herzegovina, the working group composed of herself as well as Mr Philippe Bardiaux, French expert, and Mr Dimitris Christopoulos, Greek expert, had examined certain questions related to the division of competences and structure of the ombudsman institutions in Bosnia Herzegovina, in the light of opinion no. 234 (2002) of the Parliamentary Assembly of the Council of Europe (CDL (2002) 108).

After meeting with representatives of the three ombudsman institutions, the working group had reached the conclusion that, prior to considering establishing a single, unified Ombudsman institution at the state level, the competent authorities had to turn the present one into a multi-ethnic,

national institution and had to proceed with studying the necessary constitutional and legislative amendments, the future composition of the institution and its financing.

In the meantime, it was imperative that the existing institutions continue to work without any hindrance and independently, without any hierarchical relations amongst each other. Effective co-operation and co-ordination among the three of them had to be achieved as a necessary precondition to ensuring an appropriate level of protection of individuals in Bosnia and Herzegovina.

**The Commission adopted the opinion on certain matters related to the ombudsman institutions in Bosnia and Herzegovina (CDL-AD (2002) 10).**

*Draft laws on identity cards and other matters*

Mr Scholsem explained that the so-called CIPS laws (laws on Central Registers, ID cards, personal identification numbers, residence and data protection) raised complex issues of division of competences between the State of Bosnia and Herzegovina and the two entities. An analysis of these laws accordingly required a far more thorough knowledge of the relevant background. At any rate, the Bosnian Ministry of Foreign Affairs had requested the Commission to suspend examination of this matter until further notice.

## **8. Bulgaria**

Mr Hamilton introduced the opinion (CDL (2002) 107) on the draft Law on amendments to the judicial system act (CDL (2002) 105) drawn up on the basis of comments by Messrs Hamilton, Said Pullicino and Ms Suchocka (CDL (2002) 62, 63 and 69). In general, the draft was to be seen as a positive step to reform the judiciary. Nevertheless, some issues mainly related to the independence of the judiciary, needed to be addressed. The concerns related to the need to depoliticise the elections to the Supreme Council of Justice (an issue already addressed in the Commission's opinion on a previous reform ([CDL-INF \(99\) 5](#))), the challenging of the elections of members of the Council, the role of the Minister of Justice in the Council, the role of the inspectorate within the Ministry, the system of evaluation of judges, due process in disciplinary proceedings, relocation and demotion of judges as disciplinary measures, the procedure of lifting the immunity of judges, the scope of reasons for the dismissal of a judge, the recourse to appointing retired judges without the guarantees of irremovability, a system of incentives to motivate judges and the direction of the National Institute of Justice. The Judiciary should also continue to be entitled to an autonomous budget. On the other hand, the rapporteurs did not share the concerns expressed in the Supreme Council of Justice concerning the appointment of presidents of courts for four year periods only.

Mr Gotzev informed the Commission that in practice even the parliamentary component of the Supreme Council of Justice was mainly composed of magistrates.

Mr Jambrek pointed out that the fact that 14 out of 25 members of the Supreme Council of Justice came from the judiciary and only a minority were appointed by Parliament could even be in conflict with the principle, developed in German doctrine, of an uninterrupted chain of democratic legitimacy which also applied to the judiciary.

**The Commission adopted the opinion on the Draft Law on Amendments to the Judicial System Act of Bulgaria (CDL-AD (2002) 15).**

## **9. Croatia**

The Commission was informed that the Ministry of Justice had not provided any up-to-date information on the progress concerning the constitutional law on minorities. In addition, a revision of the law on the election of members of the representative bodies of local and regional self-government units of Croatia is foreseen, however the draft revision will only be submitted to Parliament once the constitutional law on minorities has been adopted.

## **10. Georgia**

Messrs Malinverni, Bartole and Zahle presented their comments on the proposed amendments to the Constitution of Georgia (CDL (2002) 49, 55 and 72 respectively). The intention behind the amendments was to move from an American type of presidential system to a semi-presidential system like in France. While this intention was welcome, it was not carried out in a coherent way. The powers of Parliament in many respects appeared too weak and the government remained very much subordinate to the President.

Mr Buquicchio reported that the President of the Parliament, Ms Burjanadze, who had asked for the opinion, had indicated that the political situation following the recent local elections was somewhat unclear and that it would be more suitable to pursue co-operation on this issue in autumn. The rapporteurs could then pay a visit to Georgia and have further discussions.

On a different issue, Mr Buquicchio informed the Commission that a study visit to Alto Adige could be organised for representatives from Georgia and from the separatist region of Abkhazia to acquaint themselves with European models of the settlement of ethnic conflicts. Furthermore, he had been told that the authorities envisaged a complete revision of the Electoral Code.

**The Commission took note of the comments on the proposed amendments to the Constitution of Georgia prepared by Messrs Malinverni, Bartole and Zahle (CDL (2002) 49, 55 and 72) and agreed to continue co-operation with Georgia on this issue.**

## **11. Luxembourg**

### *Draft Law on the Protection of Persons in Respect of Personal Data Processing*

Mr Vogel presented the comments by Mr Rodotà and himself (CDL (2002) 68 and 67) and explained that in this relatively new field of law, States enjoy a wide margin of appreciation, which Luxembourg had not overstepped: accordingly, the draft law in question could be regarded as a satisfactory one, both from the standpoint of constitutional law and from that of EEC law (as pointed out by the other expert, Mr Stefano Rodotà).

**The Commission endorsed the comments on the Draft Law on the Protection of Persons in Respect of Personal Data Processing by Messrs Vogel and Rodotà.**

*Draft Law on Freedom of Expression in the Media*

Mr Van Dijk and Mr Luchaire introduced their comments (CDL (2002) 59, 60) explaining that it had to be considered as an excellent draft that was, in substance, in conformity with the requirements of Article 10 of the European Convention on Human Rights. Certain issues had nevertheless to be raised, notably: the principle of presumption of innocence had to be respected even in cases of prevailing public interest; interference by the press in individuals' private life had to be in conformity with Article 8 of the Convention; a right to reply to rectifications of published information had to be foreseen; the provision for the possibility for only one heir to sue the press on account of alleged defamation of a deceased person seemed unreasonable; the provision for the need to indicate the country of residence of those owing more than 25 % of the capital seemed unnecessary; the obligation to publish the name of the author of an article was too absolute.

**The Commission endorsed the comments on the Draft Law on Freedom of Expression in the Media by Messrs. Luchaire and Van Dijk.**

*Draft Law on the establishment of an Ombudsman*

Ms Serra Lopes presented the comments by Mr Ragnemalm and herself (CDL (2002) 65 and 66) and explained that the Luxembourg authorities had taken inspiration from the French model but had improved it, notably by not requiring that complaints should be addressed to the Ombudsman through a Parliamentarian. In all, the draft was a good one and the institution would be a useful one in assisting private persons in dealing with the authorities.

Ms Err underlined that the opinions of the Rapporteurs would be extremely valuable for the Luxembourg authorities which were in the process of examining the draft law, as would be the comments prepared by Directorate General II of the Council of Europe, which had co-operated with the Venice Commission on this matter. Reference to the various recommendations of the Committee of Ministers on ombudsman and human rights institutions was particularly useful.

**The Commission took note of the opinions of Ms Serra Lopes and Mr Hans Ragnemalm and charged the Secretariat with preparing a consolidated opinion in co-operation with the rapporteurs.**

**12. Moldova**

*Draft Amendments to the Constitution*

Mr Hamilton introduced the opinions prepared by Mr Lopez Guerra and himself (CDL (2002) 98 and 99) on the proposed amendments to the Constitution of Moldova. Both opinions were critical, in particular as regards abolishing the constitutional guarantee of parliamentary immunity, the shift from judicial self-control to parliamentary control of the judiciary and the vagueness of the rules on the Higher Magistrates Council. By contrast, the introduction of provisions on the Ombudsman into the Constitution was welcome.

Ms Postoico considered that a limitation of parliamentary immunity was justified under the specific circumstances in Moldova and that the proposed amendments did not threaten judicial independence.

**The Commission endorsed the opinions on the proposed amendments to the Constitution of Moldova prepared by Messrs Hamilton and Lopez Guerra (CDL-AD (2002) 14).**

*Draft law on the Constitutional Court of Moldova and corresponding constitutional amendments*

Mr Klucka introduced the opinion (CDL (2002) 102) on the draft law on the Constitutional Court of Moldova and corresponding constitutional amendments (CDL (2002) 56, 57 and 58) which had been drawn up on the basis of comments by Messrs. Klucka, Pinelli and Solyom (CDL (2002) 70, 71 and 73). These comments had been discussed with the Moldovan authorities at a seminar on 17-18 June in Chisinau. While the draft constituted a good basis for discussion, several issues ought to be addressed. The draft resulted in a shift away from constitutional guarantees for constitutional justice to its regulation on the level of ordinary law. Issues like the list of subjects which can appeal to the Constitutional Court, immunities of the judges of the Court should be regulated in the Constitution. On the other hand, the draft included too many procedural details which should be dealt with in the internal rules of procedure of the Court rather than on the level of law. Otherwise, an intervention by Parliament – with the risk of political interference in the activities of the Court - would be necessary in order to change even minor details in the Court's procedure. Some powers like the verification of the the circumstances justifying the dissolution of Parliament or opinions on constitutional amendments risked drawing the Court into politics and should be taken out of the draft. The provisions on the introduction of an individual appeal should be set out in a clearer form, especially as concerns the effects of decisions in these cases and the procedure to be followed (decisions to be taken by chambers and not only by the Plenary of the Court).

Mr Creanga, head of the legal department of the Parliament apparatus and member of the working group which had drafted the texts, thanked the Commission for the opinion and explained that the Law on the Constitutional Court needed to be reformed because in the past the Constitutional Court had sometimes overstepped its jurisdiction. The introduction of the individual appeal was deemed necessary because Moldova was bound by the European Convention on Human Rights and a possibility of an appeal against decisions by administrative tribunals was required. Ms Postoico indicated certain points in the draft opinion which related to an incorrect translation of the draft law.

**The Commission adopted the opinion on the Draft Law on the Constitutional Court of Moldova and Corresponding Constitutional Amendments with slight changes (CDL-AD (2002) 16).**

### **13. Romania**

Mr Batliner presented the draft opinion (CDL (2002) 96) on the draft revision of the Constitution of Romania. This consolidated text was drawn up by the Secretariat on the basis of contributions from Messrs Batliner, Constantinesco, Robert and Vintro (CDL (2002) 50, 52, 61 and 86). It concerns “domains and objectives taken into consideration for the revision of the Constitution” (CDL (2002) 85), presented by the Romanian authorities.

The working group composed of the above-mentioned four members and experts held in-depth discussions with the Romanian authorities in Bucharest on 18-19 March 2002.



The draft revision of the Constitution has a double objective : adapt the Constitution to European law; revise other provisions, in particular relating to legislative power, based on experience acquired since the adoption of the Constitution.

In general the draft was received positively by the experts. However, a certain number of points needed to be looked at. In particular, the holders of fundamental rights and the restriction on those rights; the presumption that members of parliament who were consistently absent had renounced their parliamentary office; the possibilities of dissolution of Parliament; the composition of the Supreme Council of Justice; the working group proposed a balance between the judges, the representatives of public power and members of the civil society.

Ms Stănoiu informed that since the meeting with the experts in Bucharest, discussions had taken place with political parties. The initiative for the revision will come from Parliament. A Commission has been set up, comprising members of political groups from the Senate and the Chamber of Deputies; the government, the President of the Republic and the advocate of the people are represented without right to vote. It should be noted that the majority of the provisions criticised by the experts had not been retained (in particular concerning absent members of parliament). The draft drawn up by the Commission will be submitted to the Parliament in November.

**The Commission adopted the opinion on the draft revision of the Constitution of Romania (CDL-AD (2002) 12).**

**14. « The former Yugoslav Republic of Macedonia »**

Mr Nolte presented his opinion on the draft revised rules of procedure of the Assembly of “The Former Yugoslav Republic of Macedonia” (CDL (2002) 83rev). The opinion focused on the compatibility of the draft with the Ohrid Framework Agreement. Following a discussion with Mr Spirovski he suggested some amendments to the text.

**The Commission adopted the opinion on the “draft proposal for Rules of Procedure of the Republic of Macedonia” (CDL-AD (2002) 11).**

**15. Ukraine**

Mr Tuori recalled that the Ukrainian legislation on political parties had already been discussed at the previous Plenary Session, when it had been decided to send a delegation of the Commission on a fact-finding mission. This mission had been undertaken by Messrs. Tuori and Vogel and had proved useful in order to clarify certain points.

Mr Tuori explained that the legislation under consideration raised certain issues; in particular, the requirement that political parties should be active nationwide and the absolute restrictions on the political activities of foreigners and stateless persons seemed contrary to European standards and practice. Further, the powers of the Ministry of Justice to control political parties should be set out in a more detailed manner. He also referred to the statement by the Ukrainian authorities that the financing of political parties would be done in accordance with the guidelines provided for by the Commission.

Ms Shakuro stressed that the fact-finding mission had allowed for certain misinterpretations and ambiguities to be straightened out and had thus been extremely useful for the Ukrainian authorities as well. She assured that the opinion would be taken into consideration by the latter. She further pointed out that the absolute ban on political activities of foreigners has its basis in the Constitution.

**The Commission adopted the opinion on the Ukrainian Legislation on Political Parties (CDL-AD (2002) 17).**

## **16. Federal Republic of Yugoslavia**

Mr Djeric informed the Commission that following the appointment of new judges the Constitutional Court of the Republic of Serbia was again operational. A law on co-operation with ICTY had been adopted which was now challenged before the Constitutional Court. The main issue at present was the preparation of the Constitutional Charter of Serbia and Montenegro. The proposal prepared within the Venice Commission at the request of the European Union had been well received but it would not be easy to have it adopted.

Mr Jowell reported that he had taken part together with Mr Markert in two meetings with representatives of the European Commission and the office of Mr Solana on the issue of the preparation of the Constitutional Charter for Serbia and Montenegro. Progress in drafting the Charter seemed slow and it was agreed to prepare draft elements for possible inclusion in the text of the Charter in order to assist the parties in reaching an agreement. The draft elements were based on the agreement reached between the parties in Belgrade in March and tried to establish a State Union which was functional and based on European standards.

## **17. Other constitutional developments**

### *Albania*

Mr Omari informed the Commission on two decisions taken by the Constitutional Court of Albania and events following these decisions. In the first general decision the Court had held that the dismissal of public officials had to follow a fair procedure which would give the persons concerned a right to reply to allegations made against them. In the second individual decision, the Court found that the dismissal of the General Prosecutor, Mr Rakipi, had been unfair (violation of the rights to be informed of the accusation, right to be given adequate time for preparation of the defence, right to appear in court). The Constitutional Court had considered that, despite the absence in the Constitution of a provision giving it competence to review the procedure of removal from office, it had a general competence over allegations of breaches of the right to a fair trial.

The President of Parliament resigned in protest against these decisions by the Constitutional Court which he deemed to be unconstitutional and the Constitutional Court was heavily attacked. Parliament only implemented the general decision and did not act upon the individual decision concerning Mr Rakipi.

Mr Omari underlined the importance, in a country governed by the rule of law, of implementing the decisions of the Constitutional Court.

**The Commission invited its President to express towards the Albanian authorities the concerns of the Venice Commission in relation to the non-implementation of a recent decision of the Constitutional Court of Albania.**

*Application of the framework Convention for the protection of national minorities in Belgium*

The Commission took note of the report of Messrs. Malinverni and Matscher about their participation in a meeting of the Committee on Legal Affairs and Human Rights of the Parliamentary Assembly of the Council of Europe on 25 June 2002 concerning the question of the application of the Framework Convention in Belgium and, in particular, about an opinion on the same matter submitted to the Committee by three experts at the request of the Flemish group.

In this respect, while confirming its opinion on this matter adopted in October 2001, the Commission wished to stress the following points:

The Commission is a body of independent experts which is in charge of giving non-binding legal advice at the request of Council of Europe bodies or member-States.

When the Framework Convention refers to minorities which are defined as “national”, it does not use this expression with reference to the size of the minority group in respect to the *overall population of a State*, but refers to the ethnic and cultural identity of the minorities concerned. This interpretation is supported by the practice of all the relevant international bodies.

In dealing with the question of minority protection in Belgium upon a request of the Parliamentary Assembly, the Commission confined itself to analysing the situation of Belgian citizens belonging to the Flemish, French-speaking and German-speaking groups only.

The rights recognised to Belgian citizens should be given to all members of these three groups also when they move within the territory of Belgium in the exercise of their rights to freedom of movement and establishment. Obviously, it is the task of the competent authorities to provide for the regulation of these rights and freedoms in compliance with the different modalities set out by the Framework Convention and by Belgian legislation.

*United States of America*

Mr Rubinfeld informed the Commission on the recent developments in the United States with regards to respect for individual rights, separation of powers and the US relationship to international law. Notwithstanding the differences in positions of the United States and the rest of the international community, he urged to build upon the existing solid common ground with regard to human rights and principles of international law.

**18. Study on the execution of judgments of the European Court of Human Rights**

Mr Van Dijk informed the Commission that the working group on this matter, composed of Messrs. Helgesen, Malinverni, Matscher and himself, had started its work and planned to submit a report to the Commission at its next Plenary Session.

**19. Report of the Meeting of the Sub-Commission on the Federal and Regional State (4 July 2002)**

The Sub-Commission on Federal and Regional State devoted its meeting to the reform of federal structures in Mexico, on the basis of the draft presented by Senator Camacho (CDL-FED (2002) 1). An exchange of views took place with representatives of the Mexican authorities, in particular Senator Camacho and Ambassador Muñoz Ledo.

Two fundamental points should be stressed : Mexico is a Federal State relatively centralised, and the draft goes towards decentralisation; the States are very much dependent on the Federation in particular in tax matters, from which comes the question of financial federalism.

A Working Group on the Revision of the Mexican Constitution was set up. Messrs Vogel, Beaudoin and Tuori are members for the moment.

**20. Report of the Meeting of the Sub-Commission on Democratic Institutions (4 July 2002)**

Due to time constraints the Chairman referred to the meeting report CDL-DEM (2002) PV14.

**21. Report of the Meeting of the Council for Democratic Elections (3 July 2002)**

Mr Nolte informed that the Council for Democratic Election, a joint body set up on the initiative of the Parliamentary Assembly in particular with a view to the adoption of a code of good conduct in electoral matters, had adopted the guidelines in electoral matters (CDL-EL (2002) 2 rév. 2). The text is aimed on the one hand at the application of existing measures and on the other hand at formulating recommendations which could go further.

Mr Wagenseil drew the Commission's attention to a meeting of the OSCE on the human dimension to be held in Warsaw on 18 September at which the question of electoral standards will be discussed. Mr La Pergola confirmed that Mr Clerfayt, Chairman of the Council for Democratic Elections, will participate in this meeting. Mr Garrone pointed out that the guidelines on electoral matters will be the contribution of the Venice Commission and the Council for Democratic Elections to the meeting on 18 September.

<b>The Commission adopted the guidelines in electoral matters (CDL-AD (2002) 13).</b>
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**22. Report of the meeting of the Joint Council on Constitutional Justice**

The Commission took note of the results of the 19<sup>th</sup> meeting of the Sub-Commission on Constitutional Justice with the liaison officers from constitutional courts and equivalent bodies which was at the same time the first meeting of the new Joint Council on Constitutional Justice (CDL-JU (2002) 19syn). With reference to objections expressed by some liaison officers against co-operation with non-European courts, the Commission insisted that - after having consulted the Joint Council - it was for the Commission to decide on such co-operation.

## **23. Other business**

### *Election of a Vice-President and two members of the Bureau*

Following the termination of the mandates of several members, the Commission elected Mr Luchaire as a Vice-President of the Commission and Messrs. Jowell and Baglay as members of the Bureau. Mr Steinberger and Mr Omari were elected as Presidents of the International Law and Mediterranean Basin Sub-Commissions respectively.

### *Colloquy on the Protection of national Minorities by their Kin-State (Athens, 7-8 June 2002)*

The Secretariat informed the Commission about the Colloquy on "Protection of National Minorities by their kin-State" which was held in Athens on 7-8 June 2002. The Commission thanked the Greek Ombudsman and the KEMO - Minority Groups Research Centre - for their fruitful and effective co-operation

### *UniDem Seminar on « The resolution of conflicts between the central State and entities with legislative power » (Rome, 14-15 June 2002)*

Mr Buquicchio informed that the seminar was a great success, with the participation of members of Constitutional Courts from most of the states concerned (Federal States, Regional States and States including entities with legislative power). He thanked the Constitutional Court of Italy for the organisation of the Seminar.

### *ODIHR Legislative Database*

Mr Wagenseil informed the Commission that a database entitled « Legislationline » had been developed by ODIHR. This database contains the legislation in force in a certain number of member States of the OSCE on a series of issues ([www.legislationline.org](http://www.legislationline.org)). Contacts have already been established with the Venice Commission Secretariat with a view to a joint action.

## **24. Dates of forthcoming sessions**

The Commission fixed the schedule of sessions as follows:

52 <sup>nd</sup> Session	18-19 October 2002
53 <sup>rd</sup> Session	14-15 December 2002
54 <sup>th</sup> Session	14-15 March 2003
55 <sup>th</sup> Session	13-14 June 2003
56 <sup>th</sup> Session	17-18 October 2003
57 <sup>th</sup> Session	12-13 December 2003

Sub-Commission meetings will take place as usual on the day before the Plenary session.

## **A P P E N D I X I**

### **LIST OF PARTICIPANTS**

#### **ALBANIA/ALBANIE:**

M. Luan OMARI, Vice Président de l'Académie des Sciences de l'Albanie

#### **ANDORRA/ANDORRE:**

M. François LUCHAIRE, Président honoraire de l'Université de Paris I, ancien membre du Conseil constitutionnel français, ancien Président du Tribunal constitutionnel d'Andorre

#### **ARMENIA/ARMENIE**

Mr Gagik HARUTUNIAN, President, Constitutional Court (Apologised/Excusé)

#### **AUSTRIA/AUTRICHE:**

M. Franz MATSCHER, Professeur, Université de Salzbourg, ancien juge à la Cour Européenne des Droits de l'Homme

#### **AZERBAIJAN/AZERBAIDJAN :**

Mr Khanlar I. HADJIYEV, President, Constitutional Court

#### **BELGIUM/BELGIQUE:**

M. Jean-Claude SCHOLSEM, Professeur, Faculté de droit, Université de Liège

#### **BOSNIA AND HERZEGOVINA/BOSNIE ET HERZEGOVINE :**

Mr Cazim SADIKOVIC, Professor at the Faculty of Law, University of Sarajevo, Former President of the Constitutional Court of Bosnia and Herzegovina

#### **BULGARIA/BULGARIE:**

M. Alexandre DJEROV, Avocat, membre de l'Assemblée nationale (Apologised/Excusé)  
M. Vassil GOTZEV, Juge, Cour constitutionnel

#### **CROATIA/CROATIE:**

Mr Stanko NICK, Ambassador of Croatia to Hungary

#### **CYPRUS/CHYPRE:**

Mr Panayotis KALLIS, Supreme Court Judge

#### **CZECH REPUBLIC/REPUBLIQUE TCHEQUE:**

Mr Cyril SVOBODA, Member of Parliament (Apologised/Excusé)

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## APPENDIX II

### AGENDA/TABLE OF CONTENTS

1.	Adoption of the agenda .....	1
2.	Communication by the Secretariat .....	1
3.	Co-operation with the Committee of Ministers.....	2
4.	Co-operation with the Parliamentary Assembly.....	2
5.	Armenia .....	2
6.	Azerbaijan.....	3
7.	Bosnia and Herzegovina.....	4
8.	Bulgaria.....	5
9.	Croatia .....	6
10.	Georgia .....	6
11.	Luxembourg.....	6
12.	Moldova.....	7
13.	Romania.....	8
14.	“The former Yugoslav Republic of Macedonia” .....	9
15.	Ukraine .....	9
16.	Federal Republic of Yugoslavia .....	10
17.	Other constitutional developments	
	<i>Albania</i> .....	10
	<i>Application of the framework Convention for the protection of national minorities</i>	
	<i>in Belgium</i> .....	11
	<i>United States of America</i> .....	11
18.	Study on the execution of judgments of the European Court of Human Rights.....	11
19.	Report of the Meeting of the Sub-Commission on the Federal and Regional States (4 July 2002) .....	12

20.	Report of the meeting of the Sub Commission on Democratic Institutions (4 July 2002) .....	12
21.	Report of the Meeting of the Council for Democratic Elections (3 July 2002) .....	12
22.	Report of the meeting of the Joint Council on Constitutional Justice .....	12
23.	Other business	
	<i>Election of a Vice-President and two members of the Bureau</i> .....	13
	<i>Colloquy on the Protection of national minorities by their kin-State</i> <i>(Athens, 7-8 June 2002)</i> .....	13
	<i>UniDem Seminar on “the resolution of conflicts between the central States and entities with legislative power” (Rome, 14-15 June 2002)</i> .....	13
	<i>ODIHR Legislative Database</i> .....	13
24.	Dates of forthcoming meeting .....	13
	Appendix I: List of participants .....	14
	Appendix II: Table of contents .....	20